

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of STEPHANIE R. YELDER and U.S. POSTAL SERVICE,
MAIN POST OFFICE, Anderson, SC

*Docket No. 98-2255; Submitted on the Record;
Issued September 1, 2000*

DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS,
A. PETER KANJORSKI

The issue is whether appellant sustained any permanent impairment causally related to her employment-related right carpal tunnel syndrome.

In October 1995 appellant sustained a cervical strain, lumbar strain, and right carpal tunnel syndrome in the performance of duty. On February 14, 1996 appellant underwent a right carpal tunnel release performed by Dr. Michael N. Bucci, appellant's attending neurosurgeon.

In a report dated May 21, 1996, Dr. Bucci related that appellant had persistent numbness in the second and third digits of her right hand as well as some persistent swelling in her right wrist. He stated his opinion that she had a permanent impairment of her right hand.

On May 22, 1996 appellant filed a claim for a schedule award.

In a form report dated May 22, 1996, Dr. Bucci opined that appellant had a 10 percent permanent impairment of the right hand due to her employment-related carpal tunnel syndrome.

In a narrative report dated August 12, 1996, Dr. Thomas R. Scott, a neurologist and Office of Workers' Compensation Programs' referral physician, provided a history of appellant's condition and findings on examination and stated that an electromyogram (EMG) and nerve reduction study would be performed to determine whether she had any residuals from her carpal tunnel syndrome.

In two reports dated August 26, 1996, Dr. Scott stated that appellant's EMG was normal with no significant difference in the median and ulnar nerve sensory latencies. He opined that she had recovered from her carpal tunnel syndrome and did not have any work restrictions or permanent impairment.

By decision dated January 10, 1997, the Office denied appellant's claim for a schedule award.

By letter dated July 21, 1997, appellant requested an oral hearing before an Office hearing representative and a hearing was held on May 19, 1998.

Subsequent to the oral hearing, appellant submitted a May 28, 1998 report in which Dr. Bucci stated that appellant had numbness to pinprick in the second and third digits of her right hand and that she had a 10 percent permanent impairment of her right hand based upon Table 1 on page 18 of the fourth edition of the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (hereinafter, the A.M.A., *Guides*).

By decision dated July 13, 1998, an Office hearing representative affirmed the Office's January 10, 1997 decision.

The Board finds that this case is not in posture for a decision due to an unresolved conflict in the medical opinion evidence.

Section 8107 of the Federal Employees' Compensation Act provides that if there is permanent disability involving the loss or loss of use of a member or function of the body, the claimant is entitled to a schedule award for the permanent impairment of the scheduled member or function.¹

In this case, in a report dated May 21, 1996, Dr. Bucci, appellant's attending neurosurgeon, related that she had persistent numbness in the second and third digits of her right hand as well as some persistent swelling in her right wrist and stated his opinion that she had a permanent impairment of her right hand. In a form report dated May 22, 1996, he opined that appellant had a 10 percent permanent impairment of the right hand due to her employment-related carpal tunnel syndrome. In a May 28, 1998 report, Dr. Bucci noted again that appellant had numbness to pinprick in the second and third digits of her right hand and he stated that she had a 10 percent permanent impairment of her right hand based upon Table 1 on page 18 of the fourth edition of the A.M.A., *Guides*.

In a narrative report dated August 12, 1996, Dr. Scott, a neurologist and Office referral physician, provided a history of appellant's condition and findings on examination and stated that an EMG and nerve reduction study would be performed to determine whether she had any residuals from her carpal tunnel syndrome. In two reports dated August 26, 1996, Dr. Scott stated that appellant's EMG was normal with no significant difference in the median and ulnar nerve sensory latencies. He opined that she had recovered from her carpal tunnel syndrome and did not have any work restrictions or permanent impairment.

In his examination of appellant, Dr. Bucci described objective findings concerning appellant's right hand, including numbness to pinprick of the second and third digits and persistent swelling of the right wrist, and he opined that appellant had sustained permanent impairment of the right hand. However, Dr. Scott opined that appellant had no permanent impairment of the right hand based upon an EMG which he found to be normal.

¹ 5 U.S.C. § 8107(a).

Section 8123(a) of the Act provides, in pertinent part, “If there is disagreement between the physician making the examination for the United States and the physician of the employee, the Secretary shall appoint a third physician who shall make an examination.”²

In this case, the Board finds that there exists an unresolved conflict in the medical evidence between Dr. Bucci, appellant’s attending physician, and Dr. Scott, the Office referral physician, necessitating referral of appellant to an appropriate Board-certified physician for an impartial medical examination and evaluation to determine whether appellant has any employment-related permanent impairment of her right hand. Following such further development as the Office deems necessary, it should issue a *de novo* decision.

The decision of the Office of Workers’ Compensation Programs dated July 13, 1998 is set aside and the case is remanded for further action consistent with this decision of the Board.

Dated, Washington, D.C.
September 1, 2000

David S. Gerson
Member

Willie T.C. Thomas
Member

A. Peter Kanjorski
Alternate Member

² 5 U.S.C. § 8123(a).